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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,270	03/09/2005	Keita Nagano	0033.0988PUS1	2945
2292 7590 03/22/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER HAILEY, PATRICIA L	
			ART UNIT	PAPER NUMBER
			1755	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		03/22/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/22/2007.

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mailroom@bskb.com

Office Action Summary	Application No. 10/527,270	Applicant(s) NAGANO, KEITA	
	Examiner Patricia L. Hailey	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 3 and 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicants' remarks and amendments, filed on December 20, 2006, have been carefully considered. No claims have been canceled; new claim 8 has been added.

Claims 1-8 are now pending in this application.

Support for new claim 8 can be found in the Specification at page 6, lines 7-13.

Withdrawn Rejections

The following rejections have been withdrawn in view of Applicants' persuasive arguments:

(1) The 102(b) rejection of claims 1, 2, and 6 as being anticipated by Japanese Patent No. 11-152423,

(2) The 102(b) rejection of claims 1, 6, and 7 as being anticipated by Hieda (U. S. Patent No. 4,936,913),

(3) The 102(b) rejection of claims 1, 6, and 7 as being anticipated by Booz (U. S. Patent No. 4,469,282),

(4) The 103(a) rejection of claims 1 and 3-5 as being unpatentable over Hieda (U. S. Patent No. 4,936,913) in view of Bunge et al. (U. S. Patent No. 4,049,610), and

(5) The 103(a) rejection of claims 1, 3, and 4 as being unpatentable over Booz (U. S. Patent No. 4,469,282) in view of Bunge et al. (U. S. Patent No. 4,049,610).

None of the cited references teach or reasonably suggest Applicants' claim limitations regarding the "average value of minimum diameter/maximum diameter of at least 0.6".

Maintained Rejection

Double Patenting

1. Claims 1, 2, 4, and 5 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 13-18 of copending Application No. 10/488,804.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are directed to an aluminum flake pigment and a method for its production, whereas the claims in the copending '804 application are directed to a method for the production of an aluminum flake pigment. In the copending '804 application, the claims recite the employment of steel ball grinding media exhibiting a diameter ranging between 0.3 and 1.0 mm, which is overlapped by the instant claims' recitation of 0.3 to 1.5 mm (see instant claim 4).

The respective sets of claims also recite comparable or overlapping ranges for the particle size/diameter of the aluminum flake, and its aspect ratio.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

The aforementioned double patenting rejection is maintained, pending the status of the copending '804 application.

New Objection

The following new objection is being made in view of Applicants' amendment to claim 4.

Claim Objections

2. *Claim 4 is objected to because of the following informalities:*

In line 2 of claim 4, the phrase "which compromises" should read "which comprises".

Appropriate correction is required.

Allowable Subject Matter

3. Claims 3, 6, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Applicants' Priority Document was filed on March 9, 2005.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

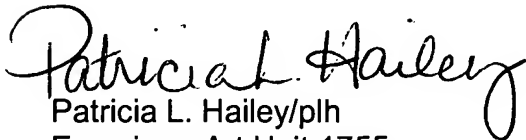
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Fridays, from 7:00 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia L. Hailey/plh
Examiner, Art Unit 1755
March 12, 2007


J.A. FORENGO
SUPERVISOR, PATENT EXAMINER